

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DAVID DUNNING,

Plaintiff,

v.

Case Number 04-10341-BC
Honorable David M. Lawson

UNITED PARCEL SERVICE,

Defendant.

/

ORDER DENYING MOTION TO STAY DISCOVERY

The defendant has filed a motion for summary judgment in this case together with a motion to stay discovery. The summary judgment motion will be reviewed after the response time has expired to determine if a hearing is required. The Court has reviewed the submission of the defendant on the motion to stay discovery and finds that the relevant law and facts have been set forth in the motion papers and that oral argument will not aid in the disposition of the motion. Accordingly, it is **ORDERED** that the motion be decided on the papers submitted. *See* E.D. Mich. LR 7.1(e)(2).

The defendant argues that its dispositive motion, styled as a motion for judgment on the pleadings or in the alternative for summary judgment, will resolve all of the issues in the case, and that additional discovery would constitute a waste of time and expense. After reading the dispositive motion, however, the Court observes that the defendant has made frequent and liberal references to the products of discovery thus far assembled in the case, and that the premise of the motion – that the plaintiff will be unable to establish a *prima facie* case under the Americans With Disability Act,

42 U.S.C. § 12101 *et seq.*, because he does not suffer from a “disability” – requires a particular construction of the facts presented.

On February 23, 2005, this Court entered a Case Management and Scheduling Order that permitted the parties to engage in discovery through October 31, 2005. After reviewing the defendant’s submissions, the Court finds no reason to attenuate or depart from the deadline set forth in that order. The Court also believes that the plaintiff ought to have a reasonable opportunity to discover the facts in the case so that he can take a position on the defendant’s claims that there are no material facts in issue.

Accordingly, it is further **ORDERED** that the motion to stay discovery [dk # 12] is denied.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: May 16, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 16, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS